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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,309	07/15/2005	Jonathan James Ferguson Phillips	7276-0001WOUS	5518

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MCCORMICK, PAULDING & HUBER LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD, CT 06103

EXAMINER

CARPENTER, BRAD T

ART UNIT	PAPER NUMBER
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3609

MAIL DATE	DELIVERY MODE
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05/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,309

Applicant(s)

PHILLIPS, JONATHAN JAMES
FERGUSON

Examiner

Bradley T. Carpenter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 7-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07/15/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character 16 has been used to designate both the rectangular plate on the upper sign portion and the central aperture of the base. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 7-18 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leo (U.S. Pat. No. 3,964,190) in view of Sparks (U.S. Pat. No. 4,595,198). With respect to claim 1, Leo discloses the same invention structurally, referencing Figure 2, as claimed in the application. The display shown in Figure 1 contains a first sign portion (Part 11, Figure 2) that is rotatably mounted, but Leo does not teach a means for limiting the rotational speed of the first sign portion. With regards to the "means for limiting the rotational speed," this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 U.S.C. 112 6th paragraph. Sparks teaches a means for limiting rotational speed in the form of a braking mechanism, operating identical to the braking mechanism claimed in the application as disclosed in Column 3 Lines 42-48 through Column 4 Lines 1-18 and can be viewed in Figure 4. The mechanism shown in Figure 4 is considered to be an equivalent to applicant's means for securing because it performs the same function in substantially the same way and produces substantially the same result as the corresponding mechanism in the applicant's specification. See MPEP 2183. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the braking mechanism disclosed by Sparks to the rotating sign disclosed by Leo because it would limit the rotating speed of the sign in the event of

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high winds, so that the sign does not rotate so fast as to negatively affect its advertising purpose.

With respect to claim 2, Leo discloses the claimed invention but does not teach a means for limiting the rotational speed of the display. Sparks discloses a braking mechanism identical to that claimed in the application. The braking mechanism disclosed by Sparks operates by centrifugal force as disclosed in Column 3 Lines 42-28 through Column 4 Lines 1-18 and in Figure 4, which is the same as the means of limiting the rotational speed discussed in the application. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the braking mechanism taught by Sparks on the display disclosed by Leo because it would limit the rotating speed of the sign as discussed in the paragraph above.

5. Claims 3-6 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leo in view of Sparks and further in view of Moss (U.S. Pat. No. 3,654,716). With respect to claim 3, Leo discloses the sign as claimed in the application including a first sign portion (Part 11, Figure 2), which is secured to an axle (Parts 13-15, Figure 2), which extends parallel to the sides of the first sign portion. The sign disclosed by Leo, however, is cylindrical in shape and therefore does not teach having distinct 2 sides adapted to carrying advertising material. Moss discloses a rotatable sign, similar in structure, which teaches a first sign portion that is rectangular and is conducive to having two opposed sides adapted to carrying advertising material. In column 2, Lines 60-64, Moss discloses that various possible embodiments and changes might be made to the invention, which would include having two opposed sides adapted to carrying

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advertising material because this would be an obvious improvement to the invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the structure of the sign disclosed by Moss including two opposed sides adapted to advertising material as the first sign portion disclosed by Leo because the display would be able to advertise twice the amount of material or the same amount of material twice making two opposed sides more optimum than one side of advertising. It has been held that discovering an optimum value or a result effective variable involves only routine skill in the art.

With respect to claim 4, Leo discloses the same display as claimed including a base (Part 16, Figure 2), and an axle (Parts 13-15, Figure 2) being substantially vertical with its lower end mounted in the base, as can be seen in Figure 2.

With respect to claim 5, Leo discloses the same display as claimed including an axle (Parts 13-15, Figure 2) being rigidly mounted as discussed in Column 1 Lines 50-57, a first sign portion (Part 11, Figure 2) mounted on the axle upon at least one spaced bearing (Part 25, Figure 2, and also discussed in Column 2, Lines 14-18) and first sign portion being rotatable relative to the axle as discussed in Column 2, Lines 6-9.

With respect to claim 6, Leo discloses the same display as claimed including a first sign portion (Part 11, Figure 2) mounted to an axle (Parts 13-15, Figure 2), which is mounted to a base (Part 16, Figure 2). Leo teaches that the first sign portion be rotatably mounted to the axle which is rigidly mounted to the base, but does not teach that the first sign portion be rigidly mounted to the axle, while the axle is rotatably mounted to the base. It would have been obvious to one of ordinary skill in the art at

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the time of the invention to mount the display in this manner because it is simply a reversal of parts, and it has been held that a mere reversal of the essential working arts of a device involves only routine skill in the art.

With respect to claim 19, Moss teaches the addition of a second sign portion (Part 35, Figure 1) to the display disclosed but does not teach that the second sign portion be movable so that it could be non-rotatably secured to the axle and releasably secured to the first sign portion for integral rotation. It would have been obvious to one of ordinary skill in the art at the time of the invention to make this adjustment to the display disclosed by Moss because it simply integrates the two signs into a single rotating display, and it has been held that forming in one piece an article which had been formerly formed in two pieces and put together involves only routine skill in the art.

With respect to claim 20, Moss teaches a second sign portion (Part 35, Figure 1) mounted on the end of the axle (Part 13, Figure 1) so as to be rotatable (Discussed in Column 2 Lines 24-29 as having the second sign portion having its shaft applied to the adaptor (Part 20, Figure 1), which is discussed in Column 1 Lines 60-61 as being rotated by the drive shaft when the motor (Part 14, Figure 1) starts, thus rotating the second sign portion as well.

With respect to claim 21, Moss teaches an electrical connection between the second sign portion and the first sign portion and an electricity supply connected to the base as seen in Figure 1 and discussed above with the adaptor being connected to the motor. In Figure 1, it can be seen that a power cord (Part 41, Figure 1) extends from the base of the display and is the connection to an electricity supply.

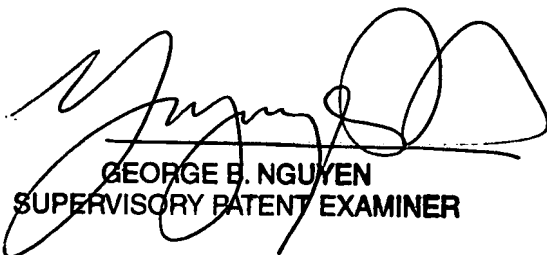
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Conclusion

6. Any inquiry concerning this communication or earlier communications should be directed to Brad T. Carpenter whose telephone number is 571-270-3134. The examiner can normally be reached Monday-Thursday 8 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on 571-272-4491.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



GEORGE B. NGUYEN
SUPERVISORY PATENT EXAMINER

Brad T. Carpenter
Examiner
Art Unit 3609

bc
5/24/07